

**BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Petition for Penalty )  
Relief of: )**

**ALFRED H. GRIMES, M.D. )**

**Physician's and Surgeon's )  
Certificate No. A-35511 )**

**Respondent. )**

**File No. 02-1994-38807**

**OAH No. N-2000080466**

**DECISION**

**The attached Proposed Decision is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on November 27, 2000.**

**IT IS SO ORDERED October 27, 2000.**

**MEDICAL BOARD OF CALIFORNIA**

**By: Ira Lubell  
Ira Lubell, M.D., Chair  
Panel A  
Division of Medical Quality**

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for Penalty  
Relief of:

ALFRED H. GRIMES, M.D.  
9617 Mill Hollow Drive  
Dallas, TX 75243-6214

Physician and Surgeon's Certificate  
No. A-35511,

Petitioner.

File No. 02-1994-38807

OAH No. N-2000080466

**PROPOSED DECISION**

This matter came on regularly for hearing before Jaime René Román, Administrative Law Judge, Medical Quality Hearing Panel, Office of Administrative Hearings, in Sacramento, California, on September 20, 2000.

Petitioner Alfred H. Grimes, M.D., appeared and was represented by Robert W. Stewart, Esq.

The Attorney General of the State of California was represented by Stephen Boreman, Deputy Attorney General, Health Quality Enforcement Section, Department of Justice, State of California.

Evidence was received and the matter deemed submitted on September 20, 2000.

**FACTUAL FINDINGS**

1. On July 8, 1980, the Medical Board of California ("the Board") issued Physician and Surgeon's Certificate No. A-35511 to Petitioner Alfred H. Grimes, M.D. ("Petitioner").

2. On December 4, 1996, in *In the Matter of the Accusation Against: Alfred H. Grimes, M.D.*, File No. 02-94-38807, the Board, pursuant to Stipulated Settlement and Disciplinary Order, revoked Petitioner's certificate, stayed the revocation for five years, and placed Petitioner on probation on various terms and conditions which included, in pertinent part: "In the event respondent [petitioner herein] should leave California to reside or to practice outside the State or for any reason should respondent stop practicing medicine in California, respondent shall notify the Division or its designee in writing within ten (10) days of the dates of departure and return or the dates of non-practice within California....Periods of temporary or permanent residence or practice outside California or of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary period."

3. The facts and circumstances underlying Petitioner's discipline are that:

- A. On January 2, 1994, he was arrested for driving under the influence of alcohol and later convicted of reckless driving-alcohol related, in connection with that arrest. He was under the influence of alcohol at the time of the arrest and on that day and at that time, he was listed as being on-call at Barton Memorial Hospital where he practiced. His being under the influence on January 2, 1994, while being on-call at Barton Memorial Hospital was unprofessional conduct.
- B. On or about July 1994, in response to an inquiry from the executive committee of Barton Memorial Hospital where he practiced, Petitioner understated the dosage of Labetelol given to a patient during surgery the previous month.

4. Petitioner, following the imposition of discipline as referenced in Finding 2, commenced Board supervised probation on February 12, 1997. Initially trained as an anesthesiologist, an opportunity presented wherein he could leave anesthesiology and undertake a residency in Rehabilitation Medicine in Texas. Advised of the tolling provision of his probation, Petitioner informed Board probation monitoring representatives that he would be departing the State of California by June 13, 1997 to undertake the residency program at Baylor in Dallas, Texas. On June 13, 1997, his probation was accordingly tolled.

5. Shortly after his arrival at Baylor, Petitioner undertook a rehabilitative program, in concert with his residency, which would address his acknowledged substance abuse. His efforts at rehabilitation included:

- A. Participation and monitoring in the Impaired Physician's Committee through the Dallas County Medical Society.
- B. Attendance at Alcoholics Anonymous meetings
- C. Monthly meetings with a psychiatrist.

D. Random urine testing (with negative results).

6. Petitioner notes January 2, 1995, as his sobriety date. He has abstained from illicit substances or alcohol since that date.

7. Having completed his residency program at Baylor in June 2000, Petitioner was successful in gaining admittance in a pain fellowship at the University of California, San Francisco. Upon returning to California, he diligently and responsibly contacted the Board to reinstate his tolled probation.

8. Petitioner, believing he has fully met the import of the discipline imposed by the Board several years ago and while acknowledging an otherwise outstanding cost recovery obligation owing the Board in the sum of \$8,000, seeks early termination of his probation or, at the very least, having embarked on a discrete practice of area from anesthesiology, a modification to the oral clinical and written exam requirement of his probation.

9. Petitioner is clearly candid and cooperative and not seeking, by this petition, to escape the rehabilitative focus of the Board but, if able, terminate such probation as having been met. Petitioner's interest in his personal and professional rehabilitation clearly will go beyond the disciplinary process of this Board or its tribunal.

### LEGAL CONCLUSIONS

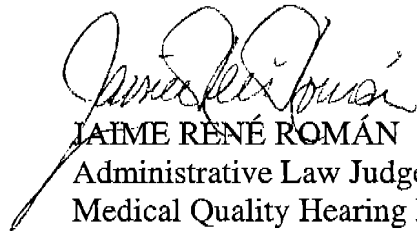
Petitioner poses a particular difficulty for this tribunal. Business and Professions Code §2307(b) provides that two years must elapse from the effective date of the decision ordering the disciplinary action for early termination of probation. In the instant case, the operative effect of the tolling provision functions to provide Petitioner with less than a year of effective probation monitoring. While clearly he has undertaken particular rehabilitative efforts, it is clear that the Legislature intended disciplined persons to be monitored for a minimum period. While Petitioner has clearly met the minimum statutory period to permit him to petition this tribunal for relief, he has not served a period of supervision by any competent state (including sister-state) medical board authorities. Without disparaging Petitioner's efforts, this tribunal is concerned with the lack of even a minimal period of supervised probation rendered by any competent state authority. On the other hand, this tribunal is unable to cavalierly ignore the significant and sincere efforts undertaken by Petitioner towards his personal and professional rehabilitation. He compels not only praise but also a scrutiny that better tailors the import of the past discipline rendered by the Board to present conditions. Concerned with a precedent that would permit or invite others to ignore the import of Board discipline by departing the jurisdiction of the State of California but equally balanced against the gains clearly established by this Petitioner; this tribunal determines that cause does not exist to grant the petition at this time, however cause does exist to modify the terms and conditions of Petitioner's probation, pursuant to Business and Professions Code §§2228, 2229 and 2307 and as set forth in Findings 2 – 9.

## ORDER

The Petition for Penalty Relief of Petitioner Alfred H. Grimes, M.D., Physician and Surgeon's Certificate No. C-35511, for termination of probation is denied; however, good cause having been shown, his probation is modified as follows:

1. The requirement for an Oral Clinical or Written Exam in anesthesia is substituted with a requirement for an Oral Clinical or Written Exam in a subject to be designated and administered by the Division, or its designee.
2. Respondent may petition for modification or termination of penalty 1) if all terms and conditions of probation have been met, and 2) if at least one year has elapsed from the effective date of this Decision and Order.
3. All other terms and conditions of probation as heretofore ordered by the Medical Board of California shall remain in full force and effect until and unless modified by competent authority.

Dated: September 22, 2000

  
JAIME RENÉ ROMÁN  
Administrative Law Judge  
Medical Quality Hearing Panel  
Office of Administrative Hearings